

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

CHARLIE FLENTROY §
VS. § CIVIL ACTION NO. 9:14cv119
RICK THALER, ET AL. §

ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Charlie Flentroy, an inmate confined within the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed the above-styled civil rights lawsuit pursuant to 42 U.S.C. § 1983.

The court previously referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to 28 U.S.C. § 636 and applicable orders of this Court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this matter. The Magistrate Judge recommends the lawsuit be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Plaintiff filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. After careful consideration, the court is of the opinion that the objections are without merit. Plaintiff alleges he was attacked by a fellow inmate almost three months prior to the date on which this lawsuit was filed. He further alleges conditions continue to exist which could result in the attack being repeated. However, plaintiff's allegations are insufficient to demonstrate he was in imminent danger of serious physical injury on the date he filed his lawsuit.

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is

ADOPTED as the opinion of the court. A final judgment shall be entered in accordance with the recommendation of the Magistrate Judge.

SIGNED this 10th day of March, 2015.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE